

IC 11-13-3

Chapter 3. Parole and Discharge of Criminal Offenders

IC 11-13-3-1

Application of chapter

Sec. 1. This chapter applies only to criminal offenders.

As added by Acts 1979, P.L.120, SEC.6.

IC 11-13-3-2

Release on parole and discharge; IC 35-50 offenders; eligibility for offenders under other laws; reinstatement after revocation of parole

Sec. 2. (a) Release on parole and discharge of an offender sentenced for an offense under IC 35-50 shall be determined under IC 35-50-6.

(b) Parole and discharge eligibility for offenders sentenced for offenses under laws other than IC 35-50 is as follows:

(1) A person sentenced upon conviction of a felony to an indeterminate term of imprisonment is eligible for consideration for release on parole upon completion of his minimum term of imprisonment, less the credit time he has earned with respect to that term.

(2) A person sentenced upon conviction of a felony to a determinate term of imprisonment is eligible for consideration for release on parole upon completion of one-half (1/2) of his determinate term of imprisonment or at the expiration of twenty (20) years, whichever comes first, less the credit time he has earned with respect to that term.

(3) A person sentenced upon conviction of first degree murder or second degree murder to a term of life imprisonment is eligible for consideration for release on parole upon completion of twenty (20) years of time served on the sentence. A person sentenced upon conviction of a felony other than first degree murder or second degree murder to a term of life imprisonment is eligible for consideration for release on parole upon completion of fifteen (15) years of time served on the sentence. A person sentenced upon conviction of more than one (1) felony to more than one (1) term of life imprisonment is not eligible for consideration for release on parole under this section. A person sentenced to a term of life imprisonment does not earn credit time with respect to that term.

(4) A person sentenced upon conviction of a misdemeanor is not eligible for parole and shall, instead, be discharged upon completion of his term of imprisonment, less the credit time he has earned with respect to that term.

(c) A person whose parole is revoked may be reinstated on parole by the parole board any time after the revocation, regardless of whether the offender was sentenced under IC 35-50 or another law. The parole board may adopt, under IC 4-22-2, rules and regulations regarding eligibility for reinstatement.

As added by Acts 1979, P.L.120, SEC.6.

IC 11-13-3-3

Release on parole or discharge; reinstatement; hearing; investigations; notice to victims and witnesses; criteria; conduct of hearing; denial of parole; parole of persons imprisoned out of state

Sec. 3. (a) A person sentenced under IC 35-50 shall be released on parole or discharged from the person's term of imprisonment under IC 35-50 without a parole release hearing.

(b) A person sentenced for an offense under laws other than IC 35-50 who is eligible for release on parole, or a person whose parole is revoked and is eligible for reinstatement on parole under rules adopted by the parole board shall, before the date of the person's parole eligibility, be granted a parole release hearing to determine whether parole will be granted or denied. The hearing shall be conducted by one (1) or more of the parole board members. If one (1) or more of the members conduct the hearing on behalf of the parole board, the final decision shall be rendered by the full parole board based upon the record of the proceeding and the hearing conductor's findings. Before the hearing, the parole board shall order an investigation to include the collection and consideration of:

- (1) reports regarding the person's medical, psychological, educational, vocational, employment, economic, and social condition and history;
- (2) official reports of the person's history of criminality;
- (3) reports of earlier parole or probation experiences;
- (4) reports concerning the person's present commitment that are relevant to the parole release determination;
- (5) any relevant information submitted by or on behalf of the person being considered; and
- (6) such other relevant information concerning the person as may be reasonably available.

(c) Unless the victim has requested in writing not to be notified, the department shall notify a victim of a felony (or the next of kin of the victim if the felony resulted in the death of the victim) or any witness involved in the prosecution of an offender imprisoned for the commission of a felony when the offender is:

- (1) to be discharged from imprisonment;
- (2) to be released on parole under IC 35-50-6-1;
- (3) to have a parole release hearing under this chapter;
- (4) to have a parole violation hearing;
- (5) an escaped committed offender; or
- (6) to be released from departmental custody under any temporary release program administered by the department, including the following:
 - (A) Placement on minimum security assignment to a program authorized by IC 11-10-1-3 or IC 35-38-3-6 and requiring periodic reporting to a designated official, including a regulated community assignment program.
 - (B) Assignment to a minimum security work release

program.

(d) The department shall make the notification required under subsection (c):

- (1) at least forty (40) days before a discharge, release, or hearing occurs; and
- (2) not later than twenty-four (24) hours after the escape of a committed offender.

The department shall supply the information to a victim (or a next of kin of a victim in the appropriate case) and a witness at the address supplied to the department by the victim (or next of kin) or witness. A victim (or next of kin) is responsible for supplying the department with any change of address or telephone number of the victim (or next of kin).

(e) The probation officer conducting the presentence investigation shall inform the victim and witness described in subsection (c), at the time of the interview with the victim or witness, of the right of the victim or witness to receive notification from the department under subsection (c). The probation department for the sentencing court shall forward the most recent list of the addresses or telephone numbers, or both, of victims to the department of correction. The probation department shall supply the department with the information required by this section as soon as possible but not later than five (5) days from the receipt of the information from the victim. A victim (or next of kin) is responsible for supplying the department with the correct address and telephone number of the victim (or next of kin).

(f) Notwithstanding IC 11-8-5-2 and IC 4-1-6, an inmate may not have access to the name and address of a victim and a witness. Upon the filing of a motion by any person requesting or objecting to the release of victim information, witness information, or both that is retained by the department, the court shall review the information that is the subject of the motion in camera before ruling on the motion.

(g) The notice required under subsection (c) must specify whether the prisoner is being discharged, is being released on parole, is having a parole release hearing, is having a parole violation hearing, or has escaped. The notice must contain the following information:

- (1) The name of the prisoner.
- (2) The date of the offense.
- (3) The date of the conviction.
- (4) The felony of which the prisoner was convicted.
- (5) The sentence imposed.
- (6) The amount of time served.
- (7) The date and location of the interview (if applicable).

(h) The parole board shall adopt rules under IC 4-22-2 and make available to offenders the criteria considered in making parole release determinations. The criteria must include the:

- (1) nature and circumstances of the crime for which the offender is committed;
- (2) offender's prior criminal record;

- (3) offender's conduct and attitude during the commitment; and
- (4) offender's parole plan.

(i) The hearing prescribed by this section may be conducted in an informal manner without regard to rules of evidence. In connection with the hearing, however:

- (1) reasonable, advance written notice, including the date, time, and place of the hearing shall be provided to the person being considered;
- (2) the person being considered shall be given access, in accord with IC 11-8-5, to records and reports considered by the parole board in making its parole release decision;
- (3) the person being considered may appear, speak in the person's own behalf, and present documentary evidence;
- (4) irrelevant, immaterial, or unduly repetitious evidence shall be excluded; and
- (5) a record of the proceeding, to include the results of the parole board's investigation, notice of the hearing, and evidence adduced at the hearing, shall be made and preserved.

(j) If parole is denied, the parole board shall give the person written notice of the denial and the reasons for the denial. The parole board may not parole a person if it determines that there is substantial reason to believe that the person:

- (1) will engage in further specified criminal activity; or
- (2) will not conform to appropriate specified conditions of parole.

(k) If parole is denied, the parole board shall conduct another parole release hearing not earlier than five (5) years after the date of the hearing at which parole was denied. However, the board may conduct a hearing earlier than five (5) years after denial of parole if the board:

- (1) finds that special circumstances exist for the holding of a hearing; and
- (2) gives reasonable notice to the person being considered for parole.

(l) The parole board may parole a person who is outside Indiana on a record made by the appropriate authorities of the jurisdiction in which that person is imprisoned.

(m) If the board is considering the release on parole of an offender who is serving a sentence of life in prison, a determinate term of imprisonment of at least ten (10) years, or an indeterminate term of imprisonment with a minimum term of at least ten (10) years, in addition to the investigation required under subsection (b) the board shall order and consider a community investigation, which must include an investigation and report that substantially reflects the attitudes and opinions of:

- (1) the community in which the crime committed by the offender occurred;
- (2) law enforcement officers who have jurisdiction in the community in which the crime occurred;
- (3) the victim of the crime committed by the offender, or if the

victim is deceased or incompetent for any reason, the victim's relatives or friends; and

(4) friends or relatives of the offender.

If the board reconsiders for release on parole an offender who was previously released on parole and whose parole was revoked under section 10 of this chapter, the board may use a community investigation prepared for an earlier parole hearing to comply with this subsection. However, the board shall accept and consider any supplements or amendments to any previous statements from the victim or the victim's relatives or friends.

(n) As used in this section, "victim" means a person who has suffered direct harm as a result of a violent crime (as defined in IC 5-2-6.1-8).

As added by Acts 1979, P.L.120, SEC.6. Amended by Acts 1981, P.L.135, SEC.1; P.L.311-1983, SEC.34; P.L.131-1985, SEC.1; P.L.151-1987, SEC.1; P.L.33-1989, SEC.11; P.L.138-1989, SEC.1; P.L.36-1990, SEC.2; P.L.134-1993, SEC.2; P.L.1-1994, SEC.46; P.L.147-1995, SEC.1; P.L.172-2001, SEC.1.

IC 11-13-3-4

Parole conditions

Sec. 4. (a) A condition to remaining on parole is that the parolee not commit a crime during the period of parole.

(b) The parole board may also adopt, under IC 4-22-2, additional conditions to remaining on parole and require a parolee to satisfy one (1) or more of these conditions. These conditions must be reasonably related to the parolee's successful reintegration into the community and not unduly restrictive of a fundamental right.

(c) If a person is released on parole the parolee shall be given a written statement of the conditions of parole. Signed copies of this statement shall be:

(1) retained by the parolee;

(2) forwarded to any person charged with the parolee's supervision; and

(3) placed in the parolee's master file.

(d) The parole board may modify parole conditions if the parolee receives notice of that action and had ten (10) days after receipt of the notice to express the parolee's views on the proposed modification. This subsection does not apply to modification of parole conditions after a revocation proceeding under section 10 of this chapter.

(e) As a condition of parole, the parole board may require the parolee to reside in a particular parole area. In determining a parolee's residence requirement, the parole board shall:

(1) consider:

(A) the residence of the parolee prior to the parolee's incarceration; and

(B) the parolee's place of employment; and

(2) assign the parolee to reside in the county where the parolee resided prior to the parolee's incarceration unless assignment on

this basis would be detrimental to the parolee's successful reintegration into the community.

(f) As a condition of parole, the parole board may require the parolee to:

- (1) periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of tests to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9); and
- (2) have the results of any test under this subsection reported to the parole board by the laboratory.

The parolee is responsible for any charges resulting from a test required under this subsection. However, a person's parole may not be revoked on the basis of the person's inability to pay for a test under this subsection.

(g) As a condition of parole, the parole board:

(1) may require a parolee who is a sex and violent offender (as defined in IC 5-2-12-4) to:

- (A) participate in a treatment program for sex offenders approved by the parole board; and
- (B) avoid contact with any person who is less than sixteen (16) years of age unless the parolee:
 - (i) receives the parole board's approval; or
 - (ii) successfully completes the treatment program referred to in clause (A); and

(2) shall:

- (A) require a parolee who is an offender (as defined in IC 5-2-12-4) to register with a sheriff (or the police chief of a consolidated city) under IC 5-2-12-5;
- (B) prohibit the offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of parole, unless the offender obtains written approval from the parole board; and
- (C) prohibit a parolee who is an offender convicted of a sex offense (as defined in IC 35-38-2-2.5) from residing within one (1) mile of the victim of the offender's sex offense unless the offender obtains a waiver under IC 35-38-2-2.5.

If the parole board allows the offender to reside within one thousand (1,000) feet of school property under subdivision (2)(B), the parole board shall notify each school within one thousand (1,000) feet of the offender's residence of the order.

(h) The address of the victim of a parolee who is an offender convicted of a sex offense (as defined in IC 35-38-2-2.5) is confidential, even if the offender obtains a waiver under IC 35-38-2-2.5.

As added by Acts 1979, P.L.120, SEC.6. Amended by Acts 1981, P.L.136, SEC.1; P.L.67-1990, SEC.5; P.L.11-1994, SEC.8; P.L.1-1995, SEC.60; P.L.214-1999, SEC.2; P.L.238-2001, SEC.15; P.L.116-2002, SEC.18.

IC 11-13-3-5

Period of parole; discharge

Sec. 5. (a) The period of parole for offenders sentenced for offenses under laws other than IC 35-50 is as follows:

(1) A person released on parole from an indeterminate term of imprisonment remains on parole until the expiration date of his term of imprisonment, except that the parole board may discharge him from that term any time after his release on parole.

(2) A person released on parole from a determinate term of imprisonment remains on parole until his determinate term expires, except that the parole board may discharge him from that term any time after his release on parole.

(3) A person released on parole from a term of life imprisonment remains on parole for life, except that the parole board may discharge him at any time after his release on parole.

(b) When parole is terminated by discharge, the parole board shall enter an order discharging the person from parole and term of imprisonment. A copy of the order shall be given to the discharged person and a copy shall be forwarded to the clerk of the sentencing court. Upon receipt of the order, the clerk shall make an entry on the record of judgment that the sentence has been satisfied.

As added by Acts 1979, P.L.120, SEC.6.

IC 11-13-3-6**Supervision and assistance of persons on parole; duties of department; cooperation of courts, probation officers, and public officials**

Sec. 6. (a) The department shall supervise and assist persons on parole. Its duties in this regard include:

(1) establishing methods and procedures for parole administration, including investigation, supervision, workloads, recordkeeping, and reporting;

(2) providing information to and otherwise assisting the parole board in making parole decisions;

(3) assisting persons in preparing parole release plans;

(4) providing employment counseling and assistance in job and residential placement;

(5) providing family and individual counseling and treatment placement;

(6) providing financial counseling;

(7) providing vocational and educational counseling placement;

(8) supervising and assisting out of state parolees accepted under an interstate compact;

(9) assisting the parole board in transferring supervision of a parolee to another jurisdiction;

(10) notifying the parole board of any modification in the conditions of parole considered advisable;

(11) notifying the parole board when a violation of parole occurs; and

(12) cooperating with public and private agencies and with

individual citizens concerned with the treatment or welfare of parolees, and assisting the parolee in obtaining services from those agencies and citizens.

(b) Courts, probation officers, and other public officials shall cooperate with the department in obtaining information relating to persons committed to the department.

(c) The department shall cause the name of any person released on parole to be entered into the Indiana data communications system (IDACS).

As added by Acts 1979, P.L.120, SEC.6. Amended by P.L.240-1991(ss2), SEC.69.

IC 11-13-3-7

Supervision and assistance of persons on parole; duties of employee assigned; employee not considered law enforcement officer

Sec. 7. (a) An employee of the department assigned to supervise and assist parolees may:

- (1) execute warrants issued by the parole board;
- (2) serve orders, subpoenas, and notices issued by the parole board;
- (3) conduct investigations necessary to the performance of his duties;
- (4) visit and confer with any person under his supervision, even when that person is in custody;
- (5) act as a probation officer if requested by the appropriate court and if that request is approved by the department;
- (6) search a parolee's person or property if he has reasonable cause to believe that the parolee is violating or is in imminent danger of violating a condition to remaining on parole;
- (7) arrest a parolee without a warrant if he has reasonable cause to believe that the parolee has violated or is about to violate a condition to remaining on parole and that an emergency situation exists, so that awaiting action by the parole board under section 8 of this chapter would create an undue risk to the public or to the parolee; and
- (8) exercise any other power reasonably necessary in discharging his duties and powers.

(b) An employee of the department assigned to supervise and assist parolees is not considered a law enforcement officer under IC 5-2-1 or IC 35-41-1.

As added by Acts 1979, P.L.120, SEC.6. Amended by P.L.311-1983, SEC.35.

IC 11-13-3-8

Violation of parole; procedures

Sec. 8. (a) If an employee of the department assigned to supervise and assist parolees believes that a parolee has violated a condition to remaining on parole, he may submit a written report of the violation to the parole board. After considering the report and making any further investigation it considers appropriate, the parole board may:

- (1) dismiss all further proceedings on the alleged violation;
- (2) instruct the employee to handle the matter informally;
- (3) request the parolee to meet informally with the parole board to review his parole obligations; or
- (4) intensify parole supervision and reporting.

(b) Upon a showing of probable cause to believe the parolee violated a condition to remaining on parole, the chairman (or a member of the parole board designated by the chairman to act in the absence of the chairman) may issue an order for the parolee to appear for a revocation hearing on the alleged violation.

(c) Upon a showing of probable cause to believe the parolee violated a condition to remaining on parole, the chairman (or a member of the parole board designated by the chairman to act in the absence of the chairman) may issue a warrant for the arrest and confinement of the parolee pending a preliminary hearing. An employee of the department or any person authorized to execute warrants may execute the warrant.

(d) Upon a showing of probable cause to believe that an alleged parole violator has fled the state, the chairman (or a member of the parole board who is designated by the chairman to act in the absence of the chairman) may:

- (1) issue a warrant for the arrest and confinement of the parolee; and
- (2) order that the parolee be returned to the state;

to ensure the appearance of the parolee at a parole revocation hearing.

(e) If the parole board issues an order, under subsection (b), for the parolee to appear for a revocation hearing, the parolee shall be given written notice of:

- (1) the date, time, and place of the hearing;
- (2) the condition alleged to have been violated;
- (3) the procedures and rights applicable to that hearing; and
- (4) the possible sanctions if a violation is found.

(f) If the parole board issues a warrant, under subsection (c), for the arrest and confinement of the parolee pending a preliminary hearing, the parolee shall be given written notice of:

- (1) the date, time, and place of the hearing;
- (2) the condition alleged to have been violated;
- (3) the procedures and rights applicable to the hearing;
- (4) his right to a revocation hearing and the procedures and rights applicable to that hearing if probable cause is found to exist; and
- (5) the possible sanctions if a violation is found at a revocation hearing.

(g) The issuance of an order to appear or arrest warrant under this section tolls the period of parole until the parole board's final determination of the charge. However, the tolled period shall be restored if there is a finding of no violation, if a finding of a violation is later overturned, or if the parole violation charge is dismissed.

As added by Acts 1979, P.L.120, SEC.6. Amended by P.L.151-1987,

SEC.2.

IC 11-13-3-9

Preliminary hearing

Sec. 9. (a) Upon the arrest and confinement of a parolee for an alleged violation of a condition to remaining on parole, an employee of the department (other than the employee who reported or investigated the alleged violation or who recommended revocation) shall hold a preliminary hearing to determine whether there is probable cause to believe a violation of a condition has occurred. The hearing shall be held without unnecessary delay. In connection with the hearing, the parolee is entitled to:

- (1) appear and speak in his own behalf;
- (2) call witnesses and present evidence;
- (3) confront and cross-examine witnesses, unless the person conducting the hearing finds that to do so would subject the witness to a substantial risk of harm; and
- (4) a written statement of the findings of fact and the evidence relied upon.

(b) If it is determined there is not probable cause to believe the parolee violated a condition to remaining on parole, the charge shall be dismissed.

(c) If it is determined from the evidence presented that there is probable cause to believe the parolee violated a condition to remaining on parole, confinement of the parolee may be continued pending a parole revocation hearing.

(d) If the alleged violation of parole is the parolee's conviction of a crime while on parole, the preliminary hearing required by this section need not be held.

(e) Unless good cause for the delay is established in the record of the proceeding, the parole revocation charge shall be dismissed if the preliminary hearing is not held within ten (10) days after the arrest.

(f) A parolee may waive his right to a preliminary hearing.

As added by Acts 1979, P.L.120, SEC.6.

IC 11-13-3-10

Parole revocation hearing

Sec. 10. (a) Parole revocation hearings shall be conducted as follows:

- (1) A parolee who is confined due to an alleged violation of parole shall be afforded a parole revocation hearing within sixty (60) days after the parolee is made available to the department by a jail or state correctional facility, if:
 - (A) there has been a final determination of any criminal charges against the parolee; or
 - (B) there has been a final resolution of any other detainers filed by any other jurisdiction against the parolee.
- (2) A parolee who is not confined and against whom is pending a charge of parole violation shall be afforded a parole revocation hearing within one hundred eighty (180) days after

the earlier of:

- (A) the date an order was issued for the parolee's appearance at a parole revocation hearing; or
- (B) the date of the parolee's arrest on the parole violation warrant.

The revocation hearing shall be conducted by at least one (1) member of the parole board, and the purpose of the hearing is to determine whether a violation of a condition to remaining on parole has occurred and, if so, the appropriate action. In connection with the hearing, the parolee is entitled to those procedural safeguards enumerated in section 9(a) of this chapter. The parolee may offer evidence in mitigation of the alleged violation.

(b) If it is determined from the evidence presented that the parolee did not commit a parole violation, the charge shall be dismissed.

(c) If it is determined that the parolee did violate parole, the parole board may continue parole, with or without modifying the conditions, or revoke the parole and order the parolee imprisoned on either a continuous or intermittent basis. If, however, the violation is the commission of a new felony, the parole board shall revoke the parole and order continuous imprisonment.

(d) The parolee shall be provided with a written statement of the reasons for the action taken under subsection (c).

(e) Unless good cause for the delay is established in the record of the proceeding, the parole revocation charge shall be dismissed if the revocation hearing is not held within the time established by subsection (a).

As added by Acts 1979, P.L.120, SEC.6. Amended by P.L.128-1985, SEC.2.